

IN THE HIGH COURT OF UTTARANCHAL AT NAINITAL

TRANSFER APPLICATION NO.20 OF 2005

Birbal S/o Sri Sabri Ram R/o Vill. Amau,
Tehsil Khatima, Distt. U.S. Nagar

..... Applicant

Versus

1. State of Uttaranchal through Collector, U.S. Nagar
2. State Industrial Development Corporation Kanpur, U.P.
3. M/s Khatima Fibres Ltd. UPSIDC, Industrial Area, Lohiya Head Road, Khatima, Distt. U.S. Nagar
4. Mr. R.C. Rastogi, Managing Director, M/s Khatima Fibers Ltd. UPSIDC, Industrial Area, Lohiya Head Road, Khatima, District U.S. Nagar

..... Respondents

*Shri Dharam Veer, ld counsel for the applicant.
Learned standing counsel for the respondents.*

Dated: 05.10.2005

Hon'ble P.C. Verma, J.

By means of this application, it has been prayed that the Land Acquisition Case No.285 of 1988, Birbal Vs. State & Others, pending before the court of District Judge, Nainital may be transferred to the court of District Judge, Udham Singh Nagar.

Brief facts of the case are that the applicant filed the above case in the court of District Judge, Nainital which was decided on 23.08.1991 by Addl. District Judge, Nainital. Against the said judgment, an appeal was filed before this Court which was registered as First Appeal No. No.795 of 2001 (Old No.557 of 1992), State of U.P. Vs. Birbal, which was decided on 26.10.2004 by which the said case was remanded to the Reference Court and the case is still pending before District judge, Nainital. At the time of hearing of the appeal, the Tehsil Khatima was in District Nainital and the territorial jurisdiction of hearing the reference was with District Judge, Nainital. On 29.09.1995, the new District Udham Singh Nagar has

been formed and Tehsil Khatima has come in Distt. U.S. Nagar. Vide order-dated 26.10.2004, the file of the said case has come to the court of District Judge, Nainital while as per law the above reference should have been gone to the court of District Judge, Udham Singh Nagar instead of District Judge, Nainital. Furthermore, the applicant is an old person having 75 years of age and is suffering from various diseases including Fenc Lapropy & Anemia etc., and it is not possible for the applicant to reach at Nainital for the pairvi of the above case. Besides this, the applicant is unable to travel any hill journey and he is a very poor person.

I have heard learned counsel for the parties and perused the affidavit filed in support of application.

In my opinion, the interest of justice would be met if the present application for transfer of the case is allowed and the case is transferred to the court of District Judge, Udham Singh Nagar (Rudrapur) from the court of District Judge, Nainital.

Hence, the application is allowed. The case is accordingly transferred to the court of District Judge, Udham Singh Nagar from the court of District Judge, Nainital.

The application for transfer of case is disposed of accordingly.

(P.C. Verma, J.)

Rajeev Dang